



State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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JOHN E. MCCORMAC, CPA
State Treasurer

FREDERICK J. BEAVER
Director

October 4, 2004

To: All Potential Bidders

**Re: Request for Proposal (RFP)
Health Benefit Consultant Services**

Enclosed please find a complete set of bid documents for the Health Benefit Consultant Services Contract for the State Health Benefits Program.

The following are key dates for this procurement:

- | | |
|-------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| (1) Optional Pre-Bid Conference: | October 21, 2004, 10:00 A.M.
Division of Pensions and Benefits
50 West State Street
1st Floor
Trenton, NJ 08625-0295 |
| (2) Bid Proposal Submission:
(Faxed Bid Proposals will
not be accepted) | November 24, 2004, 2:00 P.M.
Division of Pensions and Benefits
50 West State Street
8th Floor
Trenton, NJ 08625-0295 |

All questions concerning the RFP contents and the bidding process should be directed to the undersigned.

Sincerely,

(SIGNATURE)

Joseph Reilly

Phone: (609) 292-3501
Fax: (609) 393-4606
E-mail: Joseph.Reilly@treas.state.nj.us

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BIDDER'S RFP CHECKLIST

Critical Things to Keep in Mind

1. ____ **Read** the entire RFP. Note critical items such as: mandatory RFP requirements; required forms; bid submission date; number of bid proposal copies required; and contract requirements (i.e., indemnification, insurance, reporting, etc.).
2. ____ **Attend the Optional Pre-Bid Conference, , 2004, at 10:00 A.M.**
The Optional Pre-Bid Conference provides an opportunity for you to ask clarifying questions and gain a better understanding of the RFP.
3. ____ **Take advantage of the opportunity to submit questions you may have regarding the RFP.** Submit questions in writing to Mr. Joseph Reilly prior to the Optional Pre-Bid Conference, see Section 3.1 of "Information for Bidders." Mr. Reilly is the only Division employee you are allowed to contact regarding the RFP.
4. ____ **Follow the format required in the RFP** when preparing your bid proposal. Provide point-by-point responses to all sections in a clear and concise manner.
5. ____ **Provide complete answers/descriptions.** Read and answer all questions and requirements. Don't assume the evaluation committee will know what your company's capabilities are or what services you can provide, even if you have previously contracted with the Division.
6. ____ **Complete all forms provided**, i.e., Bidder Data Sheet, Ownership Disclosure Form, MacBride Principles Certification, Tax Set-Off Form, Affirmative Action Form and Schedule C.
7. ____ **Check the Division's website for RFP addenda.** Before submitting your bid proposal, check the Division's website at www.state.nj.us/treasury/pensions to see whether any addenda were issued for the RFP.
8. ____ **Review and read the RFP document again** to make sure that your bid proposal addresses all RFP requirements. Your bid proposal and the 10 copies must be identical and complete. The 10 copies are provided to the evaluation committee members and are necessary for the evaluation of your bid proposal.
9. ____ **Submit your bid proposal on or before 2:00 P.M., Wednesday, November 24, 2004.** Bid proposals and 10 additional copies are required to be submitted at the Division of Pensions and Benefits, 50 West State Street, 8th Floor, Trenton, NJ. Late bid proposals will not be accepted.

INFORMATION FOR BIDDERS

1. Purpose and Intent

The purpose of this Request for Proposal (RFP) is to engage the services of a professional consulting firm(s) with demonstrated successful experience with health benefit programs with enrollments of at least 50,000 participants and with public sector clients. Bidders must offer a full range of services including, but not limited to, underwriting, actuarial/underwriting, health benefits consulting, legislative review and analysis, claims processing analysis and auditing.

This RFP is issued by the Division of Pensions and Benefits, Department of the Treasury ("Division"), on behalf of the State Health Benefits Commission ("Commission"). This RFP consists of the following documents: "Information for Bidders", "Bid Proposal Instructions", Schedule A, "Standard Terms and Conditions", Schedule B, "Scope of Work," Schedule C, "Rates," Schedule D, "HIPAA Business Associate Agreement," and the "Contract." The Contract incorporates Schedules A, B, C and D by reference. All of these documents, and addendum, if any, relating thereto, can be viewed on the Division's website at www.state.nj.us/treasury/pensions.

The bid proposal must detail the bidder's technical approach and plans to complete each of the Tasks, Recurring and Non-Recurring, in Schedule B, Scope of Work. The bid proposal must detail the bidder's experience and expertise as relates to each of the Tasks, Recurring and Non-Recurring, in Schedule B, Scope of Work. In addition, the bid proposal must provide All-Inclusive-Fees for the Recurring Tasks in Schedule B and All-Inclusive-Hourly-Rates for specified job titles, to be used in the calculation of fees for Non-Recurring Tasks and additional work, see Schedule C, Rates.

The Commission reserves the right to award a single Contract or multiple Contracts. In the event a single Contract is awarded, the Contractor shall be responsible for all Contract deliverables, i.e., deliverables relating to Recurring Tasks and Non-Recurring Tasks and additional work. In the event multiple Contracts are awarded, each Contractor shall be responsible for the deliverables relating to the Recurring Task(s) and/or Non-Recurring Task(s) awarded. Additional work, if any, will be directed to the Contractor that the Contract Manager concludes has the Contract for the Recurring Task or Non-Recurring Task that has the closest nexus to the additional work.

The Division reserves the right to negotiate with one or more bidders submitting responsive bid proposals. Mandatory requirements of the RFP are not negotiable.

2. Background

The State Health Benefits Program ("SHBP") was created by the State Health Benefits Act ("Act"), N.S.J.A. 52:17.25 et seq., in 1961 to provide health insurance coverage to State employees. The Commission is the body charged with establishing health benefits programs for State employees and promulgating regulations, as necessary, to administer

the Act. The Commission is comprised of the State Treasurer (Chairman), the Commissioners of the Department of Banking and Insurance and the Department of Personnel, a State employees' representative chosen by the Public Employees' Committee of the AFL-CIO and a representative chosen by the New Jersey Education Association. The Commission has the authority to provide health benefits in accordance with the Act. The Division of Pensions and Benefits (Division) administers the SHBP on behalf of the Commission.

The SHBP covers State employees, as well as employees of local employers (State independent authorities, municipalities, boards of education, counties, etc.), who have elected to purchase coverage through the local part of the SHBP. In most instances, local employers are separately rated from the State and are split for rating purposes into two groups, educational employers and non-educational employers (municipalities, authorities, etc.). Presently, the SHBP covers approximately 802,000 lives (including active and retired individuals and their dependents). About 32% are enrolled in the Traditional Plan, 44% in NJ PLUS and 24% in HMOs. About 60% of subscribers are enrolled in the local segment.

Rates are established for the calendar year running January 1 through December 31. Traditional Plan, NJ PLUS and HMO rate projections for the new year are supplied to the Contractor and the State by the plans in the spring. Although the rates are not effective until January 1, the Contractor's rate recommendations are to be submitted to the Commission in the summer so as to allow time for marketing and a fall open enrollment. Generally, open enrollment periods for local employees is the month of September and for State employees is the month of October. In both instances, the effective date of coverage is on or about January 1.

For State employees, cost sharing is in place for most union and all non-union employees and for retirees retiring after July 1, 1998. Cost sharing is applied to the Traditional Plan and to HMOs. Eligible employees and retirees enrolled in these Plans pay a percentage of the cost. By contrast, NJ PLUS is a free plan. Cost sharing differs for local employers that participate in the SHBP.

For the State and Local Employers with a freestanding prescription drug plan, HMO rates do not include prescription drug coverage. For Local Employers without a freestanding prescription drug plan and all retirees, HMO rates include prescription drug coverage.

All SHBP contracts include penalties if performance falls below specified levels of effectiveness, accuracy and timeliness, based upon contractual standards.

Tax\$ave is a benefit program for State employees defined by Section 125 of the Internal Revenue Code. Tax\$ave allows eligible employees to set aside, through payroll deductions, before tax dollars that will be used for qualified medical, dental and dependent care expenses. Also, any SHBP health benefit deduction, including dental care, may be paid with before tax dollars through the Premium Option Plan which is part of the Tax\$ave program.

2.1 Medical plans offered under the SHBP:

2.1.1 Traditional Plan. The Traditional Plan is a self-funded indemnity plan containing a passive preferred network. The Traditional Plan is administered by Horizon Blue Cross Blue Shield of New Jersey (Horizon). Horizon receives an Administrative Services Only (ASO) fee. The start date of the contract was January 1, 2002. The contract has a three year base term with two one year extensions permitted. As of January, 2004, there were 10,519 State active employees, 3,821 State early retirees and 14,932 State Medicare retirees in the Traditional Plan. As of January, 2004, there were 46,827 local active employees, 15,599 local early retirees and 47,023 local Medicare retirees in the Traditional Plan.

2.1.2 NJ PLUS. NJ PLUS is a point-of-service-self funded plan added to the SHBP in 1990. Currently, the Plan is only available to employees and retirees residing in New Jersey, South Carolina, North Carolina and parts of Delaware, Pennsylvania, Florida, Ohio and New York. Additional national expansion is needed to address the needs of the SHBP's out-of-state retirees. NJ PLUS is administered by Horizon. Horizon receives an ASO fee. The start date of the current contract was January 1, 2002. The contract has a three year base term with two one year extensions permitted. As of January, 2004, there were 67,666 State active employees, 4,048 State early retirees and 8,298 State Medicare retirees in NJ PLUS. As of January, 2004, there were 56,817 local active employees, 5,323 local early retirees and 6,320 local Medicare retirees in NJ PLUS.

2.1.3 Health Maintenance Organizations (HMOs). The Commission contracts with five HMOs, i.e., Aetna, CIGNA, Health Net, AmeriHealth and Oxford. For three of the HMOs, i.e., Aetna, CIGNA and Health Net, the benefits are self-funded. Each of these HMOs receives an ASO fee. Two of the HMOs, i.e., AmeriHealth and Oxford, are offered on an insured basis. Funds for the payment of claims and services come from funds supplied by the State, local participating employers and members. All five HMOs offer comprehensive coverage, where participants choose a primary physician from a closed network of participating providers to manage all care provided. All five HMOs cover the entire State and a variation of other states and portions thereof. For Medicare eligible retirees, all five HMOs coordinate their benefits with Medicare.

As of January, 2004, there were 61,150 State and local active employees in the five HMOs, 6,360 State and local non-Medicare retirees in the five HMOs and 6,179 State and local Medicare retirees in the five HMOs. Aetna has the greatest membership with 66% of active employees enrolled in HMOs, 56% of non-Medicare retirees and 65% of Medicare retirees. With one exception, none of the other four HMOs has membership greater than 10% in any of these three areas. The one exception is CIGNA, which has 14.3% of State and local non-Medicare retirees and 13.2% of Medicare retirees.

2.1.4 Employee Dental Plan. The Employee Dental Plan offers State employees the choice between a traditional Employee Dental Expense Plan, offering access to a network of discounted providers, and one of ten Dental Provider Organizations (DPOs). Premiums for dental coverage are shared equally by participating State employees and the State.

Starting January 1, 2005, the Employee Dental Plan will be expanded to Local Employers opting to participate. Starting January 1, 2005, a Retiree Dental Expense Plan, offering access to a network of discounted providers, will be offered to State and local retirees participating in the SHBP.

2.1.4.1 Employee Dental Expense Plan. This Plan is self-funded. Aetna currently administers the Plan, with Aetna receiving an ASO fee. As of January, 2004, 54,097 State employees participated in the Plan. The Plan was recently rebid, with incumbent Aetna receiving a new five-year contract with a start date of January 1, 2005. Under the new contract, the Plan has been extended to local employers participating in the SHBP who opt to participate.

2.1.4.2 Retiree Dental Expense Plan. This is a new Plan that was recently bid and awarded to Aetna. The Plan has a start date of January 1, 2005. The Plan is extended to State and local retirees participating in the SHBP. Generally, costs for the Plan will be paid by participating State and local retirees, although local employers may opt to pay for all or a portion of the cost of coverage.

2.1.4.3 Dental Provider Organizations. There are currently ten DPOs offered to State employees. The DPOs are: Aetna, BeneCare, CIGNA, Community Dental, Dental Group of New Jersey, Flagship, Fortis, Group Dental Health, Healthplex and Horizon. Each of the ten DPOs offers the same plan design. Each is fully insured. As of January, 2004, 44,791 State employees participated in DPOs. Starting January 1, 2005, employees of local employers who opt to participate in the Employee Dental Plan will be eligible to enroll.

2.1.5 Prescription Drug Plans. The Commission requires that all participating SHBP employees and retirees have access to prescription drug coverage. Such access is achieved for active employees through one of the following: (1) an Employee Prescription Drug Plan, available to active State employees and active employees of participating local employers who opt for coverage, (2) an alternative drug plan offered by a participating local employer, or (3) inclusion of prescription drug coverage in all SHBP health plans. Such access is achieved for retirees through one of the following: (1) a Pilot Prescription Drug Plan for Retirees in the Traditional plan and NJ PLUS or (2) for retirees not enrolled in the Traditional Plan or NJ PLUS, all SHBP medical plans include prescription drug benefits.

2.1.5.1 Employee Prescription Drug Plan. A self-funded-plan for active employees. Administrative services for the Plan are provided by Horizon through its subcontractor Advance PCS. Horizon receives an ASO fee. The Plan was made available to Local Employers in July of 1993. Local employers are not required to participate in the Plan in

order to participate in the SHBP medical plans. The contract is offered to active State employees and their eligible dependents as a separate drug plan. The contract was renegotiated for an additional three years starting July 1, 2002. As of January 2004, State and local enrollment in the Plan combined totaled 146,194 (107,925 State and 38,269 local). The Plan features a 2-tier co-payment structure for both retail and mail-order pharmacy.

2.1.5.2 The Retiree Prescription Drug Pilot Plan is offered to retirees in the Traditional Plan and NJ PLUS. The Plan is self-insured and is administered by Horizon, which receives an ASO fee. As of January, 2004, there were 81,375 retirees in the Traditional Plan. As of January, 2004, there were 19,941 retirees in NJ PLUS. The Plan features a 3-tier co-payment structure for both retail and mail-order pharmacy, with an annual maximum out-of-pocket cap. The 5-year Pilot Plan commenced in January 2000. The State Health Benefits Commission recently acted to extend the Pilot Plan for an additional year, i.e., until January 2006.

3. Key Events

3.1 Questions and Inquiries Relating to the RFP

The Division will accept questions and inquiries relating to the RFP from all potential bidders.

Written questions should be mailed, faxed or e-mailed to the Division to the attention of:

Joseph Reilly
Assistant Director
Division of Pensions and Benefits
State of New Jersey
PO Box 295
Trenton, New Jersey 08625-0295

Fax Number: (609) 393-4606

E-Mail: Joseph.Reilly@treas.state.nj.us

3.1.1. Question Protocol

Questions should be directly tied to the RFP, following the order of organization of the RFP. Each question should begin by referencing the page number and Section number to which it relates

3.1.2 Cut-off Date for Questions

An Optional Pre-Bid Conference has been scheduled for this procurement. The cut-off date for questions is the date of the Optional Pre-Bid Conference. The Optional Pre-Bid Conference is scheduled for 10:00 a.m., Thursday, October 21, 2004, at the Division of Pensions and Benefits, 50 West State Street, 1st Floor Board Room, Trenton, NJ.

The purpose of the Optional Pre-Bid Conference is to provide a structured opportunity for the Division to answer questions regarding the RFP. It is requested that questions be submitted in writing in advance of the Optional Pre-Bid Conference.

You should advise Mr. Reilly beforehand by E-mail or fax as far in advance of the Optional Pre-Bid Conference as possible of your intent to attend.

4. Additional Information

4.1 Revisions to the RFP

In the event it is necessary to clarify or revise this RFP, such clarification or revision will be by addendum. RFP addendum will be posted on the Division's website at: www.state.nj.us/treasury/pensions. It is critical that you monitor the Division's website to ensure that, in the event RFP addenda are issued, you are fully informed of clarifications and/or revisions.

4.2 Addendum as Part of the RFP

Addendum issued shall become part of the RFP and, if relating to Schedules A, B and the appendices thereto, C or D, part of the Contract resulting from the RFP.

4.3 Bid Proposal Delivery and Identification

In order to be considered, the bid proposal must be received on or before the opening time and date of 2:00 p.m., Wednesday, November 24, 2004, at the Division of Pensions and Benefits, PO Box 295, 50 West State Street, 8th Floor, Trenton, New Jersey 08625-0295. Telephone, telefacsimile or telegraph bid proposals will not be accepted.

Bidder is cautioned to allow adequate delivery time to ensure timely delivery of the bid proposal. A late bid proposal is ineligible for consideration and will be returned unopened to the bidder.

The exterior of the bid proposal package should be labeled with the RFP's title and the opening date and time.

4.4 Number of Bid Proposal Copies

Bidder must submit one (1) complete ORIGINAL bid proposal clearly marked "ORIGINAL" and should submit 6 full, complete and exact copies. The copies are necessary to facilitate the evaluation of the bid proposal.

4.5 Contents of Bid Proposal.

This is a negotiated procurement. The only information that will be made available at bid opening is a listing of bidders and their addresses. Following the notice of intent to award, each bid proposal and, if applicable, each best and final offer, will be made available for public inspection in accordance with the New Jersey Open Public Records Act, N.J.S.A. 47: 1A-1, et seq. Interested parties may make an appointment to inspect bid proposals by contacting the individual named in Section 3.1.

Within a cover letter submitted with its bid proposal, the bidder must identify any data or materials it asserts are proprietary or trade secret and protected under the New Jersey Open Public Records Act. The proprietary or trade secret material must also be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures or paragraphs that constitute trade secret or proprietary information. The classification of line item prices, total bid proposal prices or the entire bid proposal as proprietary or trade secret is not acceptable and will result in rejection of the bid proposal.

4.6 Bid Proposal Evaluation/Contract Award

4.6.1 Overview

Prior to bid opening, the Director shall appoint an evaluation committee to evaluate bid proposals received. The evaluation committee shall establish weights for the evaluation criteria prior to bid opening. The evaluation committee may choose to avail itself of the expertise of an outside consultant in an advisory role. The evaluation committee shall submit its award recommendation to the Director. The Director shall review the evaluation committee's award recommendation and, thereafter, submit the evaluation committee's award recommendation, and any comments the Director may have relating thereto, to the Commission for consideration.

4.6.2 Evaluation Process

(a) Bid proposals will initially be reviewed by the evaluation committee to ensure that each meets mandatory requirements of the RFP. A bid proposal not meeting the mandatory requirements of the RFP will be given no further consideration.

(b) The evaluation committee may either finalize its contract award recommendation on the basis of the criteria set forth in Section 4.6.3 or conduct negotiations with those

bidders whose bid proposals are determined by the evaluation committee to be responsive and within the competitive range.

(c) If negotiations are conducted, the evaluation committee shall notify each responsive bidder in the competitive range of the deficiencies in its bid proposal, providing each bidder with the opportunity to revise its bid proposal and improve its chances for Contract award. Mandatory requirements of the RFP are not negotiable.

(d) The evaluation committee need not identify every aspect of a technically acceptable bid proposal that received less than a maximum score. Because bid proposals have different shortcomings, it may be necessary to hold more rounds of negotiations with one bidder than with another.

(e) Negotiations shall provide for the safeguarding of information and ensure that each bidder is treated fairly. Prohibited negotiations include:

(1) “Technical transfusion.” Technical transfusion is the disclosure of one bidder’s bid proposal to another to help the other improve its bid proposal.

(2) “Technical leveling.” Technical leveling is helping a bidder bring its bid proposal up to the level of other bid proposals through successive rounds of negotiations by pointing out the weaknesses that remain due to the bidder’s lack of diligence, competence or inventiveness.

(3) “Auctioning.” Auctioning is the practice of promoting price bidding between bidders by indicating the price bidders must beat, holding repeated rounds of best and final offers and/or disclosing other bidders’ prices.

(f) Following the completion of negotiations, the evaluation committee shall provide written notice to bidders that negotiations are complete. Each bidder shall then be afforded the opportunity to revise its bid proposal and submit a best and final offer by a specified date and time. Best and final offers may modify any aspect of the bidder’s proposal, provided the mandatory requirements of the RFP remain satisfied.

(g) Best and final offers will be submitted only once. While the evaluation committee may seek clarification of a best and final offer, best and final offers stand on their own merits and are not subject to negotiation.

4.6.3 Evaluation Criteria

Responsive bid proposals and, if negotiations are undertaken, best and final offers shall be evaluated by the evaluation committee on the basis of price and the following evaluation criteria:

(a) The bidder's approach and plans in meeting the RFP’s requirements.

- (b) The bidder's overall financial stability and capability to provide the services.
- (c) The bidder's documented experience in successfully completing contracts of similar size and scope.
- (d) The qualifications and experience of the bidder's management, supervisory or other key personnel to be assigned to the contract, with emphasis on documented experience with contracts of similar size and scope.
- (e) The overall ability of the bidder, as judged by the State, to satisfactorily provide all services required.

4.6.4 Contract Award

The evaluation committee shall submit its contract award recommendation to the Director. The Director shall review the evaluation committee's contract award recommendation and any other documentation the Director deems relevant. The Director shall submit the evaluation committee's contract award recommendation, and any comments the Director may have relating thereto, to the Commission for consideration. The Commission shall make a decision to award or not to award a contract for a health benefit consultant on the basis of price and other factors.

4.6.5 Reciprocity

In accordance with N.J.S.A. 52:32-1.4 and N.J.A.C. 17:9-10.12, the Commission may invoke reciprocal action against an out-of-State bidder whose state maintains a preference practice for its bidders. Any bidder is free to submit information related to the preference practices of another state. This information may be submitted in writing as part of the bid proposal, and should be in the form of resolutions passed by an appropriate governing body, regulations, a Notice to Bidders, laws, etc. It is the responsibility of the bidder to provide the documentation with the bid proposal or submit it to the Division of Pensions and Benefits within five (5) working days of the public bid opening. Written evidence of another state's preference practices that is not provided to the Division within five working days of the public bid opening will not be considered in the evaluation of bids received.

4.6.6 Right of Final Bid Acceptance

The Commission reserves the right to reject any and all bid proposals, or to award a contract in whole or in part, if deemed to be in the best interest of the SHBP to do so.

4.6.7 Notice of Intent to Award

Following the Commission's decision, a notice of intent to award or not to award a Contract shall be issued by the Director. All bidders shall receive a copy of the notice of intent to award or not to award a Contract. The notice of intent to award shall stipulate Contract execution upon the selected bidder's submission of any outstanding items within a time certain.

4.6.8 Right to Protest

A bidder not selected for Contract award has the right to protest the Commission's Contract award decision. Such protest must be filed with the Director within 10 working days following the bidder's receipt of the notice of intent to award. The Commission may, in the public interest, shorten the protest period but, in such instance, the Director shall provide notice of the shortened protest period within the notice of intent to award.

BID PROPOSAL INSTRUCTIONS

1. General

While the bidder is given wide latitude concerning the degree of detail it elects to offer in its bid proposal, the bid proposal must fully respond to all of the RFP's requirements. Any qualifying statement made by the bidder in its bid proposal could result in a low technical score or, if relating to an RFP requirement, could result in the bid proposal being non-responsive and ineligible for Contract award.

By submitting a bid proposal, the bidder represents that it has satisfied itself, from its own investigation, of all RFP requirements. Neither the Division nor the Commission assumes responsibility or bears liability for any costs incurred by the bidder in the preparation and submittal of a bid proposal in response to this RFP.

2. Definitions

Addendum – Written clarification or revision to this RFP issued by the Division of Pensions and Benefits.

All-Inclusive-Fee – The total amount due the Contractor for a particular Recurring Task in Schedule B, Scope of Work. The All Inclusive Fee includes all of the Contractor's direct and indirect costs, including, but not limited to, direct labor costs, overhead, travel, fee or profit, clerical support, equipment, materials, supplies, documents, reports, forms, reproduction and any other costs.

All-Inclusive-Hourly-Rate – The hourly rate paid to the Contractor for a specific job title in Schedule C, Rates. The All-Inclusive-Hourly-Rate will be used in calculating the fee for the Non-Recurring Tasks in Schedule B, Scope of Work, and additional work. . The All Inclusive Hourly Rate includes all of the Contractor's direct and indirect costs, including, but not limited to, direct labor costs, overhead, travel, fee or profit, clerical support, equipment, materials, supplies, documents, reports, forms, reproduction and any other costs.

Bidder – The individual or business entity submitting a bid proposal in response to this RFP.

Commission – refers to the State Health Benefits Commission.

Contract – The Contract attached to this RFP and, by reference therein, Schedules A, B, C and D of this RFP.

Contract Effective Date – The anticipated Contract Effective Date is March 1, 2005.

Contract Manager – The Deputy Director, Division of Pensions and Benefits, responsible for the approval of all deliverables.

Contractor – The bidder(s) awarded the Contract.

Director – Refers to the Director, Division of Pensions and Benefits.

Division – Refers to the Division of Pensions and Benefits.

Evaluation Committee – A committee established by the Director to review and evaluate bid proposals received in response to this RFP and to recommend a Contract award to the Commission.

HIPAA – The Health Insurance Portability and Accountability Act of 1996, 42 U.S.C.A. 1301 et seq., see Schedule D.

May - Denotes that which is permissible, not mandatory.

Non-responsive – A bid proposal that does not address and commit in writing to all of the conditions of the RFP preceded by the words “shall” or “must.”

Participating Local Employers – Employers, other than the State, participating in the State Health Benefits program.

Shall or Must - Denotes a mandatory requirement of this RFP and the Contract. Failure to satisfy a mandatory requirement of this RFP will result in the automatic rejection of a bid proposal as materially non-responsive. Failure to satisfy a mandatory requirement of the Contract may result in the termination of the Contract by the Commission.

SHBP – Refers to the State Health Benefits Program.

Should - Denotes that which is recommended, not mandatory.

Subtask – Detailed activities that comprise the actual performance of a task.

Task – A discrete unit of work to be performed.

3. Bid Proposal Content

The bid proposal should be submitted in one volume. The volume should be divided into four (4) Sections as follows:

3.1 SECTION 1 OF THE BID PROPOSAL: "FORMS/SUBMISSIONS"

The following attached forms must be completed, signed by an authorized representative of the bidder and included in Section 1 of the bidder's bid proposal:

- (a) Bidder Data Sheet
- (b) Ownership Disclosure Form

The following attached forms should be completed, signed by an authorized representative of the bidder and included in Section 1 of the bidder's bid proposal:

- (c) MacBride Principles Certification
- (d) Set-Off for State Tax Notice
- (e) Affirmative Action Employee Information Report or, in the alternative, a New Jersey Affirmative Action Certificate or evidence that the bidder is operating under a Federally approved or sanctioned affirmative action program.
- (f) Evidence of registration with the Division of Revenue, Department of the Treasury, State of New Jersey. Registration with the Division of Revenue can be done on-line at www.state.nj.us/treasury/revenue Click on "Registering Your Business."

*If a joint venture, authorized representatives from each party comprising the joint venture must comply with the forms/submissions requirements of Section 3.1. In addition, the agreement between the parties relating to the joint venture should be included in Section 1 of the joint venture's bid proposal.

BIDDER DATA SHEET

(1) Bidder's Name/Address:

(2) Bidder's telephone number:

(3) Bidder's fax number:

(4) Bidder's E-mail address:

(5) Bidder's Federal Identification Number:

(6) Bidder agrees that, should the State Health Benefits Commission act to award a Contract to the bidder, the attached Contract and, by reference therein, Schedule A, "Standard Terms and Conditions," Schedule B, "Scope of Work", Schedule C, "Rates" and Schedule D, "HIPAA Business Associate Agreement" set forth the terms of the engagement.

Signature of Bidder's Authorized Representative

Print/type Name and Title

Date: _____

OWNERSHIP DISCLOSURE FORM

NUMBER : OPEN DATE : T-NUMBER : BIDDER :	PAGE
-------------------------------------------------------	------

INSTRUCTIONS: Provide below the names, home addresses, dates of birth, offices held and any ownership interest of all officers of the firm named above. If additional space is necessary, provide on an attached sheet.

NAME	HOME ADDRESS	DATE OF BIRTH	OFFICE HELD	OWNERSHIP INTEREST (Shares Owned or % of Partnership)

INSTRUCTIONS: Provide below the names, home addresses, dates of birth, and ownership interest of all individuals not listed above, and any partnerships, corporations and any other owner having a 10% or greater interest in the firm named above. If a listed owner is a corporation or partnership, provide below the same information for the holders of 10% or more interest in that corporation or partnership. If additional space is necessary, provide that information on an attached sheet. **If there are no owners with 10% or more interest in your firm, enter "None" below.** Complete the certification at the bottom of this form. If this form has previously been submitted to the Purchase Bureau in connection with another bid, indicate changes, if any, where appropriate, and complete the certification below.

NAME	HOME ADDRESS	DATE OF BIRTH	OFFICE HELD	OWNERSHIP INTEREST (Shares Owned or % of Partnership)

COMPLETE ALL QUESTIONS BELOW

	YES	NO
1. Within the past five years has another company or corporation had a 10% or greater interest in the firm identified above? <i>(If yes, complete and attach a separate disclosure form reflecting previous ownership interests.)</i>	_____	_____
2. Has any person or entity listed in this form or its attachments ever been arrested, charged, indicted or convicted in a criminal or disorderly persons matter by the State of New Jersey, any other state or the U.S. Government? <i>(If yes, attach a detailed explanation for each instance.)</i>	_____	_____
3. Has any person or entity listed in this form or its attachments ever been suspended, debarred or otherwise declared ineligible by any agency of government from bidding or contracting to provide services, labor, material or supplies? <i>(If yes, attach a detailed explanation for each instance.)</i>	_____	_____
4. Are there now any criminal matters or debarment proceedings pending in which the firm and/or its officers and/or managers are involved? <i>(If yes, attach a detailed explanation for each instance.)</i>	_____	_____
5. Has any federal, state or local license, permit or other similar authorization, necessary to perform the work applied for herein and held or applied for by any person or entity listed in this form, been suspended or revoked, or been the subject of any pending proceedings specifically seeking or litigating the issue of suspension or revocation? <i>(If yes to any part of this question, attach a detailed explanation for each instance.)</i>	_____	_____

CERTIFICATION: I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein and thereby acknowledge that **I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing of any changes to the answers or information contained herein.** I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the State of New Jersey and that the State at its option, may declare any contract(s) resulting from this certification void and unenforceable.

I, being duly authorized, certify that the information supplied above, including all attached pages, is complete and correct to the best of my knowledge. I certify that all of the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

COMPANY NAME: _____		_____ (Signature)
ADDRESS: _____	PRINT OR TYPE {	_____ (Name)
_____	{	_____ (Title)
FEIN/SSN#: _____	Date: _____	

NOTICE TO ALL BIDDERS
REQUIREMENT TO PROVIDE A CERTIFICATION
IN COMPLIANCE WITH MacBRIDE PRINCIPLES
AND NORTHERN IRELAND ACT OF 1989

Pursuant to Public Law 1995, c.134, a responsible bidder selected, after public bidding, by the Director of the Division of Purchase and Property, pursuant to N.J.S.A. 52:34-12, or the Director of the Division of Building and Construction, pursuant to N.J.S.A. 52:32-2, must complete the certification below by checking one of the two representations listed and signing where indicated. If a bidder who would otherwise be awarded a purchase, contract or agreement does not complete the certification, then the Directors may determine, in accordance with applicable law and rules, that it is in the best interest of the State to award the purchase, contract or agreement to another bidder who has completed the certification and has submitted a bid within five (5) percent of the most advantageous bid. If the Directors find contractors to be in violation of the principles which are the subject of this law, they shall take such action as may be appropriate and provided for by law, rule or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

I certify, pursuant to N.J.S.A. 52:34-12.2, that the entity for which I am authorized to bid:

_____ has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein through the operation of offices, plants, factories, or similar facilities, either directly or indirectly, through intermediaries, subsidiaries or affiliated companies over which it maintains effective control; or

_____ will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated:

Print or Type

{
{
{

Signature of Bidder

Name

Title

Name of Company

NOTICE TO ALL BIDDERS
SET-OFF FOR STATE TAX

Please be advised that, pursuant to P.L. 1995, c.159, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice of the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c. 52:32-32 et seq.), to the taxpayer shall be stayed.

"I HAVE BEEN ADVISED OF THIS NOTICE"

COMPANY _____

SIGNATURE _____

NAME _____

TITLE _____

DATE _____

AFFIRMATIVE ACTION EMPLOYEE INFORMATION REPORT

IMPORTANT: READ INSTRUCTIONS ON BACK OF FORM CAREFULLY BEFORE COMPLETING FORM. TYPE OR PRINT IN SHARP BALL POINT PEN. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM MAY DELAY ISSUANCE OF YOUR CERTIFICATE

SECTION A - COMPANY IDENTIFICATION

1. FID. NO OR SOCIAL SECURITY	2. TYPE OF BUSINESS <input type="checkbox"/> 1. MFG. <input type="checkbox"/> 2. SERVICE <input type="checkbox"/> 3. WHOLESALE <input type="checkbox"/> 4. RETAIL <input type="checkbox"/> 5. OTHER	3. TOTAL NO. EMPLOYEES IN THE ENTIRE COMPANY
4. COMPANY NAME		
5. STREET	CITY	COUNTY
		STATE
		ZIP CODE
6. NAME OF PARENT OR AFFILIATED COMPANY (IF NONE, SO INDICATE)		CITY
		STATE
		ZIP CODE
7. DOES THE ENTIRE COMPANY HAVE A TOTAL OF AT LEAST 50 EMPLOYEES? YES <input type="checkbox"/> NO <input type="checkbox"/>		
8. CHECK ONE: IS THE COMPANY: <input type="checkbox"/> SINGLE-ESTABLISHMENT EMPLOYER <input type="checkbox"/> MULTI-ESTABLISHMENT EMPLOYER		
9. IF MULTI-ESTABLISHMENT EMPLOYER, STATE THE NUMBER OF ESTABLISHMENTS IN N.J. <input style="width:50px;" type="text"/>		
10. TOTAL NUMBER OF EMPLOYEES AT ESTABLISHMENT WHICH HAS BEEN AWARDED THE CONTRACT <input style="width:50px;" type="text"/>		
11. PUBLIC AGENCY AWARDED CONTRACT		CITY
		STATE
		ZIP CODE

OFFICIAL USE ONLY

DATE RECEIVED-MO/DAY/YR	ASSIGNED CERTIFICATION NUMBER

SECTION B - EMPLOYMENT DATA

12. Report all permanent, temporary and part-time employees ON YOUR OWN PAYROLL. Enter the appropriate figures on all lines and in all columns. Where there are no employees in a particular category, enter a zero. Include ALL employees, not just those in minority categories, in columns 1, 2 & 3.

JOB CATEGORIES	ALL EMPLOYEES			MINORITY GROUP EMPLOYEES (Permanent)							
	Col. 1 TOTAL (Cols. 2&3)	Col. 2 MALE	Col. 3 FEMALE	MALE				FEMALE			
				BLACK	HISPANIC	AMERICAN INDIAN	ASIAN	BLACK	HISPANIC	AMERICAN INDIAN	ASIAN
Officials and Managers											
Professionals											
Technicians											
Sales Workers											
Office and Clerical											
Craftworkers (Skilled)											
Operatives (Semi-skilled)											
Laborers (Unskilled)											
Service Workers											
TOTAL											
Total employment from Previous Report (If any)											

The data below shall NOT be included in the figures for the appropriate categories above.

Temporary and Part-time Employees		
13. HOW WAS INFORMATION AS TO RACE OR ETHNIC GROUP IN SECTION B OBTAINED? <input type="checkbox"/> 1. VISUAL SURVEY <input type="checkbox"/> 2. EMPLOYMENT RECORD <input type="checkbox"/> 3. OTHER (Specify)	15. IS THIS THE FIRST EMPLOYEE INFORMATION REPORT (AA-302) SUBMITTED? 1. YES <input type="checkbox"/> 2. NO <input type="checkbox"/>	16. IF NO, DATE OF LAST REPORT SUBMITTED MO. DAY YEAR
14. DATES OF PAYROLL PERIOD USED FROM: TO:		

SECTION C - SIGNATURE AND IDENTIFICATION

17. NAME OF PERSON COMPLETING FORM (Print or Type) (CONTRACTOR EEO OFFICER)	SIGNATURE	TITLE	DATE MO. DAY YEAR
18. ADDRESS (NO. & STREET)	(City)	(State)	(Zip Code)
Phone (Area Code, No., Extension)			

☐ Affirmative Action Office
 ☐ Public Agency
 ☐ Contractor

INSTRUCTIONS FOR COMPLETING THE AFFIRMATIVE ACTION EMPLOYEE INFORMATION REPORT (FORMAA302)

IMPORTANT: READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM. PRINT OR TYPE ALL INFORMATION. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM MAY DELAY ISSUANCE OF YOUR CERTIFICATE.

ITEM 1 - Enter the Federal Identification Number assigned to the contractor or vendor by the Internal Revenue Service, or if a Federal Employer Identification Number has been applied for, but not yet issued, write the words "applied for",

or

If your business is such that you have not, or will not receive a Federal Employer Identification Number, enter the Social Security Number assigned to the single owner or to a partner, in case of a partnership.

ITEM 2 - Check the box appropriate to your TYPE OF BUSINESS. If you are engaged in more than one type of business check the predominate one. If you are a manufacturer deriving more than 50% of your receipts from your own retail outlets, check "Retail".

ITEM 3 - Enter the total "number" of employees in the entire company, including part-time employees. This number shall include all facilities in the entire firm or corporation.

ITEM 4 - Enter the name by which the company is identified. If there is more than one company name, enter the predominate one.

ITEM 5 - Enter the physical location of the company. Include City, County, State and Zip Code.

ITEM 6 - Enter the name of any parent or affiliated company including the City, State and Zip Code. If there is none, so indicate by entering "None" or N/A.

ITEM 7 - Check the appropriate box for the total number of employees in the entire company. "Entire Company" shall include all facilities in the entire firm or corporation, including part-time employee, not just those employees at the facility being awarded the contract.

ITEM 8 - Check the box appropriate to your type of company establishment. Single-establishment Employer shall include an employer whose business is conducted at only one physical location. Multi-establishment Employer shall include an employer whose business is conducted at more than one location.

ITEM 9 - If multi-establishment was entered in item 8, enter the number of establishments within the State of New Jersey.

ITEM 10 - Enter the total number of employees at the establishment being awarded the contract.

ITEM 11 - Enter the name of the Public Agency awarding the contract. Include City, State and Zip Code.

ITEM 12 - Enter the appropriate figures on all lines and in all columns. THIS SHALL ONLY INCLUDE EMPLOYMENT DATA FROM THE FACILITY THAT IS BEING AWARDED THE CONTRACT. DO NOT list the same employee in more than one job category.

Racial/Ethnic Groups will be defined:

Black: Not of Hispanic origin. Persons having origin in any of the Black racial groups of Africa

Hispanic: Persons of Mexican, Puerto Rican, Cuban, or Central or South American or other Spanish culture or origin, regardless of race.

American Indian or Alaskan Native: Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander: Persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands. This area includes for example, China, Japan, Korea, the Phillipine Islands and Samoa.

ITEM 13 - Check the appropriate box. If the race or ethnic group information was not obtained by 1 or 2, specify by what other means this was done in 3.

ITEM 14 - Enter the dates of the payroll period used to prepare the employment data presented in Item 12.

ITEM 15 - If this is the first time an Employee Information Report has been submitted for this company, check block "Yes".

ITEM 16 - If the answer to Item 15 is "No", enter the date when the last Employee Information Report was submitted by this company.

ITEM 17 - Print or type the name of the person completing the form. Include the signature, title and date.

ITEM 18 - Enter the physical location where the form is being completed. Include City, State, Zip Code and Phone Number.

TYPE OR PRINT IN SHARP BALL POINT PEN

THE CONTRACTOR IS TO COMPLETE THE EMPLOYEE INFORMATION REPORT RENEWAL FORM (AA302) AND RETAIN ONE (1) COPY FOR THE CONTRACTOR'S OWN FILES. FORWARD TWO (2) COPIES TO:

Affirmative Action Office
Department of the Treasury
State House
P.O. Box 209
Trenton, New Jersey 08625-0209
Telephone No. (609) 292-5475

3.2 SECTION 2 OF THE BID PROPOSAL: “TECHNICAL PROPOSAL”

3.2.1 Disclosure

3.2.1.1 In conformance with Executive Order #129, the bidder must disclose the location by country where the services under the Contract will be performed (See also Section 3.3.8.1 and Section 10 of Schedule A, Standard Terms and Conditions).

3.2.1.2 In conformance with Executive Order #134, the bidder must report all contributions the bidder made during the preceding four years to any political organization organized under section 527 of the Internal revenue Code that also meets the definition of a “continuing political committee” within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7 (See Section 2 (f) of Schedule A, Standard Terms and Conditions).

3.2.2 Management Overview

The bidder must detail its technical approach and plans to complete each of the Tasks, Recurring and Non-Recurring, in Schedule B, “Scope of Work.” The bidder’s bid proposal should evidence that the bidder understands the objectives that each Task is intended to meet, the nature of the required work and the level of effort necessary to successfully complete the Task.

Mere reiterations of the Tasks are strongly discouraged, as they do not provide insight into the bidder's ability to complete the Tasks. Bidder’s Technical Proposal should be designed to convince the Evaluation Committee that the bidder’s plans and approach proposed for completing each Task are realistic, attainable and appropriate.

3.2.3 Contract Management

The bidder shall describe its plans to manage control and supervise the Contract to ensure satisfactory performance.

3.2.4 Potential Problems

The bidder should set forth a summary of any and all problems that the bidder anticipates during the Contract. For each problem identified, the bidder should provide its proposed solution.

3.3 SECTION 3 OF THE BID PROPOSAL: “ORGANIZATIONAL SUPPORT AND EXPERIENCE”

3.3.1 Location

The bidder should include the location of the bidder's office that will be responsible for managing the Contract. The bidder should include the telephone number and name of the individual to contact.

3.3.2 Organization Chart (Contract Specific)

The bidder must include an organization chart, with names showing management, supervisory and other key personnel (including subcontractor's management, supervisory or other key personnel) to be assigned to the Contract. The chart should include the labor category and title of each such individual (Job titles/descriptions should mirror the job title/descriptions in Schedule C).

3.3.3 Resumes

The bidder should submit detailed resumes for all management, supervisory and key personnel to be assigned to the Contract. Resumes should be structured to emphasize relevant qualifications and experience of these individuals in successfully completing contracts of a similar size and scope. Beginning and ending dates should be given for each similar contract. For each similar contract, the bidder should include the name and address and telephone number of a person to contact from the other party to the contract.

In the event the bidder must hire or otherwise engage management, supervisory and/or key personnel if awarded the Contract, the bidder should include a recruitment plan for such personnel. Such recruitment plan should demonstrate that the bidder will be able to implement the Contract on its anticipated start date of March 1, 2005.

3.3.4 Resources

The bidder should include a description of the bidder's capabilities, corporate resources, software, national and regional benefit data warehouses, etc. that would indicate the bidder's ability to respond to periodic requests for information relating to: best practices regionally and nationally, trends in benefit designs and plan costs, innovative concepts and designs by other providers or employers, etc.

3.3.5 Organization Chart (Entire Firm)

The bidder should include an organization chart showing the bidder's entire organizational structure. This chart should show the relationship of the individuals proposed for each Plan bid to the bidder's overall organizational structure.

3.3.6 Experience of the Bidder on Contracts of Similar Size and Scope

The bidder should list Contracts of similar size and scope that it holds or has held. For each Contract listed, the bidder should provide the name, address and phone number of a knowledgeable person from the party that the bidder contracted with. The bidder should demonstrate experience with health programs with enrollments of at least 50,000 participants and with public sector clients.

3.3.7 Financial Capability of the Bidder

The bidder should provide audited financial statements for the last three fiscal years and current bank reference(s).

3.3.8 Subcontractor(s)

3.3.8.1 The bidder, in compliance with Executive Order #129, must disclose the location by country where subcontracting services will be performed.

3.3.8.2 The bidder should provide a detailed description of services to be provided by each subcontractor, referencing the applicable Task in Schedule B, Scope of Work.

3.3.8.3 The bidder should provide detailed resumes for each subcontractor's management, supervisory and other key personnel demonstrating knowledge, ability and experience relevant to the Task the subcontractor is to perform.

3.3.8.4 The bidder should provide documented experience demonstrating that each subcontractor has successfully performed work on contracts of a similar size and scope to the Task that the subcontractor is to perform.

3.3.8.5 The bidder should provide audited financial statements for the last three fiscal years and current bank reference(s) for each subcontractor.

3.3.9 Innovation

The bidder is requested to highlight various other options and features which may be unique to the bidder, or which the bidder feels would be advantageous for the Commission to consider.

3.4 SECTION 4 OF THE BID PROPOSAL: “RATES”

The bidder must complete Schedule C, “Rates” Information submitted must either be typed or written in ink. Any corrections, whiteouts, erasures, restriking of type, or other forms of alterations, or the appearance of alterations, to price information provided must be initialed by the bidder.

Schedule C solicits two price categories:

(a) Recurring Tasks

An “All-Inclusive-Fee” for each of the 7 Recurring Tasks in Schedule B, Scope of Work, must be provided. For some of the 7 Recurring Tasks, the bidder must provide the “All-Inclusive-Fee” on a Subtask basis.

In addition to providing an All-Inclusive-Fee for each Recurring Task, the bidder should detail in Section 3.4 of the bid proposal how the bidder arrived at the All-Inclusive Fee for each Recurring Task.

The expectation is that the All-Inclusive-Fee will be paid to the Contractor upon the Contract Manager’s acceptance of the associated deliverable. If the bidder is proposing a different payment arrangement, the bidder must detail in Section 3.4 of the bid proposal the manner in which it proposes that payment be made for a particular Recurring Task. In no event will the payment made exceed the All-Inclusive-Fee.

(b) Non-Recurring Tasks and Additional Work

The Contractor shall be compensated for a Non-Recurring Task and additional work, if any, on the basis of a fee agreed to with the Contract Manager in writing prior to the start of the work. Such fee shall be a function of the number of hours by job title agreed upon as necessary to complete the Non-Recurring Task or additional work and the “All-Inclusive-Hourly-Rate” for each such job title.

SCHEDULE A

STANDARD TERMS AND CONDITIONS

1. Contractor Responsibilities

The Contractor is responsible for the professional quality, technical accuracy and timely completion and submission of all services and deliverables. The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its services and deliverables. Approval by the Contract Manager of deliverables shall not be construed as a waiver of any rights the Commission may have arising out of the Contractor's performance.

2. Mandatory Compliance with the Law

(a) Anti-Discrimination Laws. The Contractor shall not discriminate in employment and shall abide by all anti-discrimination laws, including those contained within N.J.S.A.10:2-1 through N.J.S.A 10:2-4, N.J.S.A. 10:5-1, et seq., and N.J.S.A. 10:5-38.

(b) Americans With Disabilities Act. The Contractor shall abide by the provisions of the Americans with Disabilities Act, 42 U.S.C. 12101, et seq.

(c) Ownership Disclosure. Pursuant to N.J.S.A. 52:25-24.2, the Contractor has a continuing obligation to notify the Contract Manager of any change affecting 10% or more of its ownership.

(d) Set-Off for State Taxes. Pursuant to N.J.S.A. 54:49-19, if the Contractor is entitled to payment under the Contract at the same time it is indebted for any State tax (or is otherwise indebted to the State), the State Treasurer may set off payment by the amount of the indebtedness.

(e) Standards Prohibiting Conflicts of Interest. The following prohibitions apply to the Contract:

(1) The Contractor shall not pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b and e, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i of any such officer or employee, or partnership, firm or corporation with which they are employed or associated or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.

(2) The solicitation of any fee, commission, compensation, gift, gratuity, or other thing of value by any State officer or employee or special State officer or employee or employee from the Contractor shall be reported in writing by the Contractor to the Attorney General and the Executive Commission on Ethical Standards.

(3) The Contractor shall not, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, expressed or implied, or sell any interest in the Contractor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actual or appearance of a conflict of interest.

(4) The Contractor shall not influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

(5) The Contractor shall not cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the contractor or any other person.

(6) These Standards shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with Contractor under the same terms and conditions as are offered or made available to members of the general public, subject to any guidelines that the Executive Commission on Ethical Standards may promulgate under paragraph (3).

(f) It shall be a breach of the terms of the Contract for the Contractor to: (i) make or solicit a contribution in violation of Executive Order #134; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of Governor, or to any State or county party committee; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the Contractor, would subject the Contractor to the restrictions of Executive Order #134; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of Executive Order #134; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of Executive Order #134.

Compliance with the above is a material term and condition of the Contract. The Contractor has a continuing duty to report any contribution made by it during the term of the Contract.

3. Liability-Copyright

The Contractor shall hold and save the Commission and the State of New Jersey, their officers, agents and employees, harmless from liability of any nature or kind for or on account of the use of any copyrighted or non-copyrighted composition, secret process, patented or non-patented invention, article or appliance furnished or used in the performance of the Contract.

4. Indemnification

(a) The Contractor shall defend, indemnify and hold the Commission and the State of New Jersey harmless from and against all costs and liabilities of whatever nature, including claims, causes of action, damages, proceedings, assessments, penalties, judgments, attorney's fees, resulting from: (a) acts or omissions of Contractor which are intentionally wrongful; and/or (b) acts or omissions which, when all facts and circumstances are taken into account, constitute a failure by Contractor to perform its responsibilities as health benefit consultant with that degree of skill and judgment possessed by one experienced in furnishing health benefit consultant services to a program of similar size and characteristics as the SHBP.

(b) The Contractor agrees that:

(1) Approval by the Contract Manager, the Director and/or the Commission of the work performed and/or reports, plans, or specifications provided by the Contractor shall not operate to limit the Contractor's obligations;

(2) The Division, Director, Commission and State of New Jersey assume no obligation to indemnify the Contractor, its agents, employees or subcontractors for any claim which may arise from the Contract; and

(3) The provisions of this indemnification clause shall in no way limit the Contractor's obligations under the Contract, nor shall they be construed to relieve the Contractor from any liability, nor preclude the Commission or the State of New Jersey from taking any other actions available under any other provisions of the Contract or otherwise at law or equity.

5. Insurance

The Contractor shall secure and maintain in force for the term of the Contract liability insurance as provided herein. The Contractor shall provide the Contract Manager with current certificates of insurance for all coverages and renewals thereof which must contain the proviso that the insurance provided in the certificate cannot be cancelled for any reason except after thirty days written notice to:

Director
Division of Pensions and Benefits
50 West State Street, 8th Floor
PO Box 295
Trenton, New Jersey 08625-0295

The insurance to be provided by the Contractor shall be as follows:

(a) General liability policy as broad as the standard coverage forms currently in use in the State of New Jersey, which shall not be circumscribed by any endorsements limiting the breadth of coverage. The policy shall be endorsed to include:

- (1) BROAD FORM COMPREHENSIVE GENERAL LIABILITY
- (2) PRODUCTS/COMPLETED OPERATIONS
- (3) PREMISES/OPERATIONS

The limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single unit.

(b) Automobile liability insurance which shall be written to cover any automobile used by the contractor. Limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit.

(c) Workers Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

\$100,000 BODILY INJURY, EACH OCCURRENCE
\$100,000 DISEASE EACH EMPLOYEE
\$500,000 DISEASE AGGREGATE LIMIT

6. Contract Term and Extension Option

The term of the Contract shall be for a period of 3 years. By mutual written consent of Contractor and the Director, the Contract may be extended for an additional 2 years, with no one extension exceeding 1 year.

7. Availability of Funds

The Commission's obligation to pay the Contractor is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of the Commission or the State of New Jersey for payment of any money shall arise unless funds are made available each fiscal year to the Commission by the Legislature.

8. Contract Amendment

Any changes or modifications to the terms of the Contract shall only be valid when reduced to writing and signed by Contractor and the Director.

9. Substitution of Staff

If it becomes necessary for the Contractor to substitute any management, supervisory or key personnel, the Contractor will identify the substitute personnel and the work to be performed. The Contractor must provide detailed justification documenting the necessity for the substitution.

Resumes must be submitted evidencing that the individuals proposed as substitution have qualifications and experience equal to or better than the individual(s) originally proposed or currently assigned. The Contractor shall forward a request to substitute staff to the Contract Manager for consideration and approval. No substitute personnel are authorized to begin work until Contractor has received written approval to proceed from the Contract Manager.

10. Substitution or Addition of a Subcontractor

If it becomes necessary for the Contractor to substitute and/or add a subcontractor, Contractor shall forward a written request to substitute and/or add a subcontractor to the Contract Manager for approval. In compliance with Executive Order #129, the Contractor must disclose the location by country where subcontracting services will be performed. The proposed subcontractor shall not commence work until the Contractor receives written approval from the Contract Manager to engage the subcontractor.

The Contractor's written request to the Contract Manager shall include justification documenting the necessity for the substitution or addition. The Contractor must provide detailed resumes of the proposed subcontractor's management, supervisory and other key personnel that demonstrate knowledge, ability and experience relevant to that part of the work the subcontractor is to undertake. In the event a subcontractor is proposed as a substitution, the proposed subcontractor must equal or exceed the qualifications and experience of the subcontractor being replaced. In the event the subcontractor is proposed as an addition, the proposed subcontractor's qualifications and experience must equal or exceed that of similar personnel proposed by the Contractor in its bid proposal.

11. Assignment/Merger

The Contractor shall not assign its rights and/or obligations under the Contract without the prior written consent of the Director. Any assignment of Contractor's rights and/or obligations under the Contract without the prior written consent of the Director shall: (a) not be binding on the Commission; (b) not relieve the Contractor of any duty, obligation or liability assumed by it under the Contract; and (c) be cause for rescission of the Contract by the Commission.

The following documents must accompany the Contractor's written request to the Director to assign its rights and/or obligations under the Contract: (a) corporate resolutions from the Contractor and proposed assignee, the corporate resolution of the assignee must state that the assignee accepts all of the terms and conditions of the Contract without exception; (b) Assignment Agreement executed by Contractor and assignee, this Agreement is available for downloading at: www.state.nj.us, click on "New Jersey Home Page," click on "Departments/Agencies," click on "Treasury," click on "Download Forms," scroll to "Purchase Bureau Forms for Bidders," click on "Assignment Agreement;" (c) Ownership Disclosure Form executed by the assignee, this Form is available for downloading by following the instructions in (b) above; (d) MacBride Principles Certification executed by assignee, this Certification is available for downloading by following the instructions in (b) above; (e) Affirmative Action Employee Information Report executed by assignee, this Report is available for downloading by following the instructions in (b) above; and (f) evidence of the assignee's registration with the Division of Revenue, registration with the Division of Revenue can be done on-line at www.state.nj.us, click on "New Jersey Home Page," click on "Departments/Agencies," click on "Treasury," go to "Quick Links," click on "Start a New Business" and click on "Registering Your Business."

12. Ownership of Material

All data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of the Contract, including, but not limited to, all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the services required under the Contract shall be and remain the property of the Commission and shall be delivered by the Contractor to the Commission upon 30 days written notice from the Director. With respect to software computer programs and/or source codes developed for the Commission, the work shall be considered "work for hire", i.e., the Commission, not the Contractor or subcontractor, shall have full and complete ownership of all software computer programs and/or source codes developed.

13. Data Confidentiality

All financial, statistical, personnel and/or technical data supplied by the Division and/or Commission to the Contractor are confidential. The Contractor is required to use reasonable care to protect the confidentiality of such data. Any use, sale or offering of this data in any form by the Contractor, or any individual or entity in the Contractor's charge or employ, will be considered a violation of the Contract and may result in Contract termination and the Contractor's suspension or debarment from State contracting. In addition, such conduct may be reported to the State Attorney General for possible criminal prosecution.

14. News Releases

The Contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under the Contract without the prior written consent of the Director.

15. Advertising

The Contractor shall not use the Commission's, Division's and/or State's name, logos, images, or any data or results arising from the Contract as a part of any commercial advertising without the prior written consent of the Director.

16. Licenses and Permits

The Contractor shall, at its own expense, obtain and maintain all required licenses, permits, and authorizations necessary to perform the Contract. Upon the Contract Manager's request, the Contractor shall supply the Contract Manager with evidence of all such licenses, permits and authorizations.

17. Claims and Remedies

17.1 Claims

Any and all claims that may be asserted against the Commission or the State of New Jersey by the Contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59: 1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59: 13-1, et seq.

17.2 Remedies

Nothing in the Contract shall be construed to be a waiver by the Commission or the State of New Jersey of any warranty, expressed or implied, or any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Director. Failure by the Contract Manager, the Director, the Division and/or the Commission to insist on compliance with any provision of the Contract at any given time or under any given set

of circumstances shall not operate to waive or modify such provision or in any manner render it unenforceable.

18. Delivery

The Contractor must immediately advise the Contract Manager of any circumstance or event that could result in late completion of any Task or Subtask called for to be completed on a date certain. In the event delivery is not made in accordance with the agreed upon schedule, the Director may cancel the work with no payment being owed the Contractor.

19. Contract Cancellation

(a) Change of circumstance. When the needs of the Commission change, the Commission may cancel the Contract upon thirty (30) days written notice to the Contractor. The Director shall issue such notice. The Contractor shall furnish the Commission such close-out reports as may reasonably be required.

(b) For cause. In the event the Contractor fails to perform or comply with the Contract, after being afforded written notice and the opportunity to cure, the Commission may cancel the Contract upon thirty (30) days written notice to the Contractor. The Director shall issue such notice. Upon receipt of such notice, the Contractor shall cease all work. The Contractor shall furnish the Commission such close-out reports as may reasonably be required.

The Commission's right to rescind the Contract for cause includes: the Contractor's violation of state or Federal law (as demonstrated by the Contractor's admissions of same or a final decision of an appropriate decision-making body); the Contractor's debarment from contracting by the Federal or any state government or any agency or political subdivision thereof; and any reason relating to the ability of the Contractor to fulfill its contractual obligations.

(c) In the event the Contract is cancelled, the Contractor shall be entitled to receive compensation for services actually and satisfactorily performed, less payments previously made and, in the event the Contract is cancelled for cause, less the difference in price incurred by the Commission in securing Contract services from an alternative vendor.

20. Change in Law

Whenever an unforeseen change in applicable law or regulation affects the Contract, the Contractor shall advise the Contract Manager in writing and include in such written transmittal any estimated increase or decrease in the cost of its services. The Director and the Contractor shall negotiate an equitable adjustment, if any, to the Contract price.

21. Additional Work

The Contractor shall not begin performing any Non-Recurring Task or additional work without first obtaining written approval from the Contract Manager. In the event Contractor proceeds with a Non-Recurring Task or additional work without the Contract Manager's written approval, it shall be at Contractor's sole risk. Neither the Commission nor the State of New Jersey shall have an obligation to pay for a Non-Recurring Task or additional work performed without the Contract Manager's prior written approval.

In the event of a Non-Recurring Task or additional work, the Contractor must present a written proposal to the Contract Manager. The Contractor's written proposal must provide a detailed description of the level of effort, i.e., hours by job title, necessary to complete the Non-Recurring Task or additional work.

22. Contract Transition

In the event services end by either Contract expiration or termination, it shall be incumbent upon the Contractor to continue services, if requested by the Director, until new services can be completely operational. The Contractor acknowledges its responsibility to cooperate fully with the replacement contractor, the Division and the Commission to ensure a smooth and timely transition to the replacement contractor.

23. Notices

Notices required to be given by the Contractor to the Commission, Director and/or Contract Manager shall be in writing and shall be validly served if addressed and mailed by fax or regular mail to the following address:

As to the Commission and/or Director:

Frederick J. Beaver, Director
Division of Pensions and Benefits
50 West State Street, 8th Floor
P.O. Box 295 Trenton, NJ 08625
Fax (609) 393-4606

As to the Contract Manager:

Florence Sheppard, Deputy Director
(See address and fax above).

Notices required to be given by the Contract Manager, the Director or the Commission to the Contractor shall be in writing and shall be validly served if addressed and mailed by fax or regular mail to the following address:

(Contractor's Address)

24. Applicable Law

The Contract shall be governed by the laws of the State of New Jersey.

SCHEDULE B SCOPE OF WORK

1.0 RECURRING TASKS

1.1 Annual Rate Renewal Reports

The Contractor shall issue four Annual Rate Renewal Reports for:

- *The Traditional Plan, NJ PLUS and Prescription Drug Plans for the State group.
- *The Traditional Plan, NJ PLUS and Prescription Drug Plans for the Local Employer group.
- *All HMOs.
- * The Dental Plan.

All Annual Rate Renewal Reports shall include the following:

1. Executive Summary: Includes key findings and recommendations; (recommendations can include, in addition to rate actions, the removal of plans or corrective actions, the issuance of a request for proposal, new benefit recommendations or deletions of old benefits, revised programs, etc.), and historical highlights (overall historical trends in membership, reserves, trends, etc.).
2. Enrollment history and trends.
3. Analysis of Health Care Trend: Methodology for prediction of trend (for medical plans separate claims and utilization analyses are developed for the State and local portions (including education and non-education groups)).
- 4 Financial Projections: Determination of past period to project need for renewal.
- 5 Development of Rate Renewal: as part of the analysis, for medical plans, separate reserve analysis for the State and local portions (including education and non-education groups). Analysis will include identification of plan costs and utilization trends and how those trends parallel or vary from known general experience for other carriers Statewide, regionally and nationally.
6. Presentation of Premium Rates.

1.1.1 Annual Rate Renewal Report for the Traditional Plan, NJ PLUS and Prescription Drug Plans for the State group.

State claims experience will be provided to the Contractor on a quarterly basis by the Plan administrator for the Traditional Plan, NJ PLUS and the Prescription Drug Plan. Claims experience provided shall be analyzed upon receipt by the Contractor and any concerns that the Contractor may have relating thereto shall be immediately reported to the Contract Manager (the Deputy Director, Division of Pensions and Benefits, responsible for approving all Contract deliverables).

At the present time, three sets of rates are developed for the Traditional Plan and NJ PLUS participants (active employees, early retirees, Medicare retirees). Medicare retiree rates cannot be greater than 125% of the non-Medicare rates.

Retiree prescription drug costs for the Traditional Plan and NJ PLUS participants are analyzed and developed separately, but added to the medical plan retiree rates for billing and contribution purposes. At the present time, Retiree Prescription Drug rates are not differentiated by any employer group, although the data is available. The Contractor develops recommended increases in the retiree prescription drug co-payment and the out-of-pocket maximum.

During the spring of each year, the administrator for each Plan will provide the Contractor with a written projection of costs and proposed rate renewal for the following calendar year. For each Plan noted, the Contractor will independently develop rate renewal projections based upon the Contractor's review of the State's experience, cost, utilization trends and population growth or decline. Thereafter, the Contractor will meet directly with each Plan administrator (officials of the SHBP will also attend) to discuss/negotiate a mutually acceptable rate renewal for each Plan that the Contractor concludes is in the best interest of the SHBP. The Contractor's Annual Rate Renewal Report for each Plan is presented to the Commission for approval during the summer. The Annual Rate Renewal Report for each Plan shall be presented by the Contractor to the Commission at a special session of the Commission, with an explanation by the Contractor of the important issues and an opportunity for the Commission to ask questions. At a second special session of the Commission, approximately one week later, the rate renewal for the upcoming calendar year for each Plan will be voted on by the Commission, following comments, if any, from the general public.

1.1.2 Annual Rate Renewal Report for the Traditional Plan, NJ PLUS and Prescription Drug Plans for the Local Employer group.

As noted, participating Local Employers are split into two groups for rating purposes, i.e., educational employees and non-educational employees. The Contractor's Annual Rate Renewal Report shall recommend renewal rates for each local group.

Three sets of rates are developed for the Traditional Plan and NJ PLUS participants (active employees, early retirees, Medicare retirees) within each employer group type.

Medicare retiree rates cannot be greater than 125% of the non-Medicare rates. Projections for surcharge income from non-participating boards of education are developed as offsets for rate projections for the education employers. In addition, and unlike the State group, rates for active employees in each employer group are developed with and without prescription drug coverage provided through the medical plans.

Retiree prescription drug costs for Traditional Plan and NJ PLUS participants are analyzed and developed separately, but added to the medical plan retiree rates for billing and contribution purposes. At the present time, retiree prescription drug rates are not differentiated by any employer group, although the data is available. The Contractor develops recommended increases in the retiree prescription drug co-payment and out-of-pocket maximum.

Claims experience for each local group will be provided to the Contractor on a quarterly basis by the Plan administrator for the Traditional Plan, NJ PLUS and the Prescription Drug Plan. Claims experience provided shall be analyzed upon receipt by the Contractor and any concerns that the Contractor may have relating thereto shall be immediately reported to the Contract Manager.

During the spring of each year, the administrator for each Plan will provide the Contractor with a written projection of costs and proposed rate renewals for the following calendar year for each local group. For each Plan noted, the Contractor will independently develop rate renewal projections for each local group based upon the Contractor's review of the particular local group's experience, cost, utilization trends and population growth or decline. Thereafter, the Contractor will meet directly with each Plan administrator (officials of the SHBP will also attend) to discuss/negotiate mutually acceptable rate renewals for each local group that the Contractor concludes are in the best interest of the SHBP. The Contractor's Annual Rate Renewal Report for each Plan is presented to the Commission for approval during the summer. The Annual Rate Renewal Report for each Plan shall be presented by the Contractor to the Commission at a special session of the Commission, with an explanation by the Contractor of the important issues and an opportunity by the Commission to ask questions. At a second special session of the Commission, approximately one week later, the rate renewals for the upcoming year for each Plan will be voted on by the Commission, following comments, if any, from the general public.

1.1.3 Annual Rate Renewal Report for Health Maintenance Organizations (HMOs).

Services/Deliverables

- (a) During the spring of each year, the Contractor prepares a renewal questionnaire. The renewal questionnaire must solicit information/comments from each HMO sufficient for the Contractor's Annual Rate Renewal Report for the following calendar year to fully address the issues identified in (1) through (6) of Section 1.1, including, for each HMO, a separate rate renewal projection for the State and for each local group.

- (b) Contractor submits draft renewal questionnaire to the Contract Manager for approval.
- (c) Contractor sends approved renewal questionnaire to each HMO.
- (d) Renewal questionnaires due back from HMOs. Contractor follows up on late responses. Contractor analyzes responses.
- (e) Contractor discusses/negotiates renewal terms/rates with each HMO. Contractor keeps the Contract Manager informed of the substance of such discussions/negotiations.
- (f) Contractor submits draft Annual Rate Renewal Report to the State Project Manager for approval.
- (g) Contractor, following discussions with the Contract Manager and, if necessary, additional discussions/negotiations with HMOs, submits final Annual Rate Renewal Report to the Contract Manager for approval (Providing rate renewal recommendations/justifications for the State and each local group for each HMO).
- (h) In the summer, following the Contract Manager's acceptance of the Contractor's final Annual Rate Renewal Report, the Contractor shall present the Report to the Commission, with an explanation of issues addressed and rates recommended for the upcoming calendar year and an opportunity for the Commission to ask questions. At a second meeting of the Commission, approximately one week later, the rate renewals for the upcoming calendar year for each HMO will be voted on by the Commission following comments, if any, from the general public.

1.1.4 Annual Rate Renewal Report for the Dental Plans

The Annual Rate Renewal Report for the Dental Plans shall include recommended renewal rates for the following calendar year for Dental Provider Organizations, the Employee Dental Expense Plan and the Retiree Dental Expense Plan. The Report shall be presented to the Commission at a special session of the Commission generally in the summer for renewal beginning the next calendar year. At a special session of the Commission during the summer, the Contractor shall explain the basis for the rate recommendations for the following year and respond to any questions that the Commission may have with respect there. At a second special session of the Commission, approximately one week later, rate renewals for the upcoming calendar year will be voted on by the Commission, following comments, if any, from the general public.

1.1.4.1 Dental Provider Organizations (DPOs).

Claims experience shall be provided to the Contractor on a quarterly basis by each DPO. Claims experience provided shall be analyzed upon receipt by the Contractor and any concerns that the Contractor may have relating thereto shall be immediately reported by the Contractor to the Contract Manager.

During the spring of each year, a questionnaire shall be prepared by the Division concerning issues of importance that require DPOs feedback and/or agreement (new benefit designs, increased co-payments, etc.).

Based upon the four most recent quarterly claims experience reports from each DPO and answers from each DPO to the questionnaire prepared by the Division, the Contractor shall, during the summer, finalize recommended renewal rates for each DPO for the following year. Such recommendation shall fully address all of the issues identified in (1) through (6) of Section 1.1, including, for each DPO, proposed renewal rates for the State and for each local group.

1.1.4.2 Employee Dental Expense Plan

Claims experience shall be provided to the Contractor by the Plan administrator on a quarterly basis. Claims experience provided shall be analyzed upon receipt by the Contractor and, any concerns that the Contractor may have relating thereto, shall be immediately reported by the Contractor to the Contract Manager.

During the spring of each year, the Contractor shall request a renewal package from the Plan administrator. The renewal package shall include a triangulation report from the Plan administrator, providing claims paid and incurred by month since contract inception, a proposed ASO fee, in the event a revised ASO fee is permitted under the Plan administrator's contract, and proposed renewal rates for the State and each local group.

These deliverables shall be analyzed by the Contractor. If necessary, the Contractor shall schedule discussions/negotiations with the Plan administrator. During the summer, the Contractor shall recommend renewal rates for the following year and, in the event a revised ASO fee is permitted under the Plan administrator's contract, an ASO fee for the following year to the Commission. Such recommendation shall fully address all of the issues identified in (1) through (6) of Section 1.1, including proposed renewal rates for the State and each local group.

1.1.4.3 Retiree Dental Expense Plan

Claims experience shall be provided to the Contractor by the Plan administrator on a quarterly basis. Claims experience provided shall be analyzed upon receipt by the Contractor and, any concerns that the Contractor may have relating thereto, shall immediately be reported by the Contractor to the Contract Manager.

During the spring of each year, the Contractor shall request a renewal package from the Plan administrator. The renewal package shall include a triangulation report from the Plan administrator, providing claims paid and incurred by month since the inception of the Plan administrator's contract, a proposed ASO fee, in the event a revised ASO fee is permitted under the Plan administrator's contract, and proposed renewal rates for all retirees (Unlike other SHBP health plans, a single set of rates shall apply to all retirees,

regardless of whether the retiree's previous employment was with the State or a local group).

These deliverables shall be analyzed by the Contractor. If necessary, the Contractor shall schedule discussions/negotiations with the Plan administrator. During the summer, the Contractor shall recommend renewal rates for the following year and, in the event a revised ASO fee is permitted under the Plan administrator's contract, an ASO fee for the following year to the Commission. Such recommendation shall fully address all of the issues identified in (1) through (6) of Section 1.1, with the exception of the need to calculate separate rate renewals for the State and each local group.

1.2 Audits

All self-insured plans (ASOs, i.e., the Traditional Plan, NJ PLUS, Aetna HMO, CIGNA HMO, Health Net HMO, the Employee Dental Expense Plan, the Retiree Dental Expense Plan, the Employee Prescription Drug Plan and the Pilot Prescription Drug Plan for Retirees (Traditional Plan retirees and NJ PLUS retirees)) are subject to audit. The Contractor shall undertake audits at the direction of the Contract Manager. The Commission reserves the right to contract separately for such audits.

1.3 Performance Measures

Performance measures are part of all SHBP health benefit contracts. SHBP contractors submit the results of performance measures annually to the SHBP. At the direction of the Contract Manager, the Contractor shall audit such results. (At the direction of the Contract Manager, the Contractor shall negotiate performance measures during the annual rate renewal process. In such event, the fee relating to negotiations shall be calculated in the same manner as additional work).

1.4 Annual Determination of SHBP Budget Projections.

The Office of Management and Budget, State Department of the Treasury, requires an annual estimate of projected health benefits costs for all State employees for the upcoming fiscal year. The basis of these estimates (i.e., projected rate changes) and rationale in support thereof shall be provided by the Contractor to the Contract Manager in the early fall.

1.5 Quarterly Review of Claims Experience

All self-insured plans (ASOs, i.e., the Traditional Plan, NJ PLUS, Aetna HMO, CIGNA HMO, Health Net HMO, the Employee Dental Expense Plan, the Retiree Dental Expense Plan, the Employee Prescription Drug Plan and the Pilot Prescription Drug Plan for Retirees (Traditional Plan retirees and NJ PLUS retirees)) are required to report their experience on a quarterly basis to the Contractor. The Contractor shall analyze the data and provide the Contract Manager with a summary of the financial status and rate projections for each plan on a quarterly basis.

1.6 Annual Determination of COBRA Vision Rates

Although not a benefit included in the SHBP, the State, through the Office of Payroll Administration, administers a modest vision reimbursement program for State employees for exams and hardware. Based on actual reimbursement data provided, the Contractor shall determine a COBRA rate for anyone wishing to extend their vision benefits, as required by COBRA.

1.7 Annual Surcharge Determination

Insurance companies contracting with local boards of education not participating in the SHBP are required to pay an annual surcharge to the SHBP in the form of a percentage of the claims paid by the particular insurance company. The Contractor shall prepare the surcharge calculation annually. The surcharge calculation is set forth at N.J.S.A. 52:14-17.38c.

2.0 NON-RECURRING TASKS

2.1 Contract Renewal Advice

Certain SHBP contracts (HMOs and DPOs) are renewed annually. Upon the written request of the Contract Manager, the Contractor shall provide expert advice relating to the terms and conditions for the renewal of such contracts.

2.2 Assistance with Requests for Proposals (RFPs)

Periodically, certain SHBP contracts are publicly bid. Additionally, RFPs may be required for new SHBP initiatives. Upon the written request of the Contract Manager, the Contractor shall provide expert advice/assistance in the preparation of RFPs and in the evaluation of bid proposals received in response to RFPs.

2.3 Assistance in the Preparation of Written Materials

Upon the written request of the Contract Manager the Contractor shall provide expert assistance in the writing of technical brochures or technical sections of SHBP handbooks, language for rule revisions in the NJ Administrative Code and other written materials.

2.4 Design of New Programs or Benefits

Upon the written request of the Contract Manager, the Contractor shall provide expert assistance, underwriting/actuarial services, advice in the design of new benefits, and will independently recommend new programs.

2.5 Audit and Evaluation of Current Programs

Upon the written request of the Contract Manager, the Contractor shall perform claims audits and evaluate the operation of current programs. Preparations and findings of recommendations shall be provided in a written report.

2.6 Evaluation of Proposed or Enacted Legislation

The Contractor is expected to immediately advise the Contract Manager of pending or enacted Federal legislation affecting the SHBP. Upon the written request of the Contract Manager, the Contractor shall advise of the financial/administrative impact of State or Federal legislation on the SHBP and assist in the implementation of changes made necessary by such legislation.

2.7 Analysis of Local Employer Issues

Upon the written request of the Contract Manager, the Contractor shall provide expert advice on improving the relationship between the Commission/Division and the local component of the SHBP. In particular, recommending practices that encourage retention of local participating employers in the SHBP and encourage non-participating local employers to join the SHBP.

2.8 Surveys

Upon the written request of the Contract Manager, the Contractor shall prepare and perform surveys, including but not limited to, employee/employer satisfaction surveys, surveys of other public health benefit programs and provider surveys for purposes of ascertaining the feasibility of new participating provider networks.

2.9 Analysis of Covered Service Area Expansion

For purposes of providing an adequate choice of plans for the SHBP retirees and employees working in other states, the Contractor, upon the written request of the Contract Manager, shall analyze service areas of current plans and provide recommendations regarding design and expansion of plans into other states.

2.10 Analysis of Regional and National Trends

Upon the written request of the Contract Manager, the Contractor shall advise the Contract Manager of regional and national trends in the public and private employee benefits plans with regard to benefit design, cost analysis trends, etc.

2.11 Financial Reporting

Upon the written request of the Contract Manager, the Contractor shall undertake the work required to ensure that the SHBP is in compliance with the requirements of Statement No. 43, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, issued by the Governmental Accounting Standards Board.

SCHEDULE C RATES

Definitions

Administrative Assistant - Support staff providing assistance to the team in developing overall projects.

All-Inclusive-Fee – The total amount due the Contractor upon the Contract Manager's acceptance of the deliverable that is the subject of the All-Inclusive-Fee. The All-Inclusive-Fee includes all of the Contractor's direct and indirect costs, including, but not limited to, direct labor costs, overhead, travel, fee or profit, clerical support, equipment, materials, supplies, documents, reports, forms, reproduction and any other costs.

All-Inclusive-Hourly-Rate - The total amount due the Contractor per hour for a specific job title. The All-Inclusive-Hourly-Rate includes all of the Contractor's direct and indirect costs, including, but not limited to, direct labor costs, overhead, travel, fee or profit, clerical support, equipment, materials, supplies, documents, reports, forms, reproduction and any other costs.

Benefits Consultant - Individual with expertise in various benefit specialties who train and supervise Junior Consultants, and assist and provide support for Senior Consultants.

Health Benefits Actuary - Individual who has expertise in forecasting health plan liabilities and cost impact of emerging trends.

Junior Consultant - Individual with limited experience in benefits specialties who supports the Benefits Consultant and/or Senior Consultant.

Lead Consultant-Team Leader - Individual with experience in health benefits, plan design, funding, administration, and other health benefits related disciplines, who leads the team, coordinates all activities, develops work flow, and has responsibility for all client requests and projects.

Senior Benefits Underwriter - Individual who has responsibility for, and expertise in, setting rates, developing renewals (medical, dental, prescription drug, etc.), costing out effects of proposed legislation, new benefits, changes in plan design, trends, etc.

Senior Consultant - Individual with expertise to handle and be responsible for various benefits specialties, such as dental, HMOs, auditing systems, voluntary programs, etc.

(a) Recurring Tasks

All-Inclusive-Fee

1.1 Annual Rate Renewal Reports

The Traditional Plan, NJ PLUS, and Prescription
Drug Plans for the State group..... \$_____

The Traditional Plan, NJ PLUS, and Prescription
Drug Plans for the Local Employer Group..... \$_____

All HMOs..... \$_____

The Dental Plans..... \$_____

1.2 Audits

The Traditional Plan..... \$_____

NJ PLUS..... \$_____

Aetna HMO..... \$_____

CIGNA HMO..... \$_____

Health Net HMO..... \$_____

Employee Dental Expense Plan..... \$_____

Retiree Dental Expense Plan..... \$_____

Employee Prescription Drug Plan..... \$_____

Pilot Prescription Drug Plan for Retirees (Traditional
Plan retirees and NJ PLUS retirees)..... \$_____

1.3 Audit of Performance Measures (Per SHBP
health benefit contract)..... \$_____

1.4 Annual Determination of SHBP Budget Projections... \$_____

All-Inclusive-Fee

1.5 Quarterly Review of Claims Experience

The Traditional Plan.....	\$_____
NJ PLUS.....	\$_____
Aetna HMO.....	\$_____
CIGNA HMO.....	\$_____
Health Net HMO.....	\$_____
Employee Dental Expense Plan.....	\$_____
Retiree Dental Expense Plan.....	\$_____
Employee Prescription Drug Plan.....	\$_____
Pilot Prescription Drug Plan for Retirees (Traditional Plan retirees and NJ PLUS retirees)	\$_____
1.6 Annual Determination of COBRA Vision Rates.....	\$_____
1.7 Annual Surcharge Determination.....	\$_____

(b) Non-Recurring Tasks and Additional Work

The All-Inclusive-Hourly-Rates shall be used during the Contract to calculate the fee due the Contractor for a Non-Recurring Task. The fee due the Contractor for a Non-Recurring Task shall be a function of the breakdown of hours by specific job title for the Non-Recurring Task agreed to in writing by the Contractor and the Contract Manager prior to the start of the work and the corresponding All-Inclusive-Hourly-Rates for the specific job titles involved in the Non-Recurring Task.

The fee due the Contractor for additional work shall also be a function of the breakdown of hours by specific job title for the additional work agreed to in writing by the Contractor and the Contract Manager prior to the start of work and the corresponding All-Inclusive- Hourly-Rates for the specific job titles involved in the additional work.

All-Inclusive-Hourly-Rates

Lead Consultant-Team Leader.....	\$_____
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All-Inclusive-Hourly-Rates

Senior Benefits Underwriter.....	\$_____
Health Benefits Actuary.....	\$_____
Senior Consultant.....	\$_____
Benefit Consultant.....	\$_____
Junior Consultant.....	\$_____
Administrative Assistant.....	\$_____

SCHEDULE D
HIPAA BUSINESS ASSOCIATE AGREEMENT

Preamble – This Business Associate Agreement (“Agreement”) is Schedule D to the Contract for Health Benefit Consultant Services, awarded to _____ (hereinafter “Business Associate”) by the State Health Benefits Commission (hereinafter “Covered Entity”).

Whereas, pursuant to the terms of the Contract, the Covered Entity will be disclosing certain information to the Business Associate, which may also otherwise be receiving and/or creating certain information on behalf of the Covered Entity, some of which may constitute Protected Health Information (PHI), as this term is defined by the Health Insurance Portability and Accountability Act of 1996, 42 U.C.S.A. 1301 et seq. (“HIPAA”) and the regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”); and

Whereas, the Covered Entity and the Business Associate must protect the privacy and provide for the security of PHI disclosed to the Business Associate pursuant to the Contract in compliance with the HIPAA and the HIPAA Regulations and other applicable laws; and

Whereas, the purpose of this Agreement is to satisfy certain standards and requirements of HIPAA and the HIPAA Regulations, including but not limited to those contained in Title 45, §164.504(e) of the Code of Federal Regulations (“CFR”), as the same may be amended from time to time.

NOW THEREFORE, in consideration of the promises and mutual covenants contained in the Contract and this Agreement, the Covered Entity and the Business Associate agree as follows:

Article 1 – Definitions

Terms used, but not otherwise defined, shall have the same meaning as those terms in 45 CFR §160.103 and §164.501.

“Agreement” shall mean this Business Associate Agreement.

“Business Associate” shall mean_____.

“Contract” shall mean the Contract to provide Health Benefit Consultant Services, awarded by the Commission to the Business Associate. The Contract incorporates this Business Associate Agreement as Schedule D.

“Covered Entity” shall mean the State Health Benefits Commission and the State Health Benefits Program, N.J.S.A. 52:14-17.25.

“Data Aggregation” shall have the meaning given to such term under the Privacy Rule, including but not limited to 45 CFR §164.501.

“Designated Record Set” shall have the meaning given to such term under the Privacy Rule, including but not limited to 45 CFR §164.501.

“Health Care Operations” shall have the meaning given to such term under the Privacy Rule, including but not limited to 45 CFR §164.501.

“Individual” shall have the meaning given to such term in 45 CFR §164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

“Privacy Rule” shall mean the HIPAA Regulation that is codified at 45 CFR Parts 160 and part 164, sub parts A and E.

“Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium; that (1) is created or received by a covered entity and (2) relates to the past, present, or future payment for the provision of health care to an individual; and (3) identifies an individual or with respect to which there is a reasonable basis to believe the information can be used to identify an individual, and shall have the meaning given to such term under the Privacy Rule, including but not limited to 45 CFR §164.501.

“Required by Law” shall have the meaning given to such term in 45 CFR §164.501.

“Secretary” shall mean the Secretary of the federal Department of Health and Human Services or his designee.

“State Health Benefits Commission” or “Commission” shall mean the body created by N.J.S.A. 52:14-17.27 and charged with the responsibility to establish a health benefits program for State and Participating Local Employers and to establish rules and regulations necessary to administer the State Health Benefits Act, 52:14-17.25 to 52:14-17.45. The Division of Pensions and Benefits administers the State Health Benefits Program, N.J.S.A. 52:14-17.35, and the Director of the Division of Pensions and Benefits is the Secretary of the Commission.

“State Health Benefits Program” (“SHBP”) means the health benefits program created pursuant to N.J.S.A. 52:14-17.25 to 52:14-17.45.

Article 2 – Obligations of Business Associate

A. *Permitted Uses and Disclosures.* Business Associate may use or disclose PHI received by Business Associate in accordance with the terms of this Agreement.

B. *Nondisclosure.* Business Associate shall not use or further disclose the Covered Entity's PHI otherwise than as permitted or required by this Agreement, or as required by law, 45 CFR §164.504(e)(2)(ii)(A).

C. *Safeguards.* Business Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of PHI otherwise than as permitted by this Agreement, 45 CFR §164.504(e)(2)(ii)(B). Business Associate shall maintain a comprehensive written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities.

D. *Duty to Mitigate.* Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement.

E. *Reporting of Improper Use or Disclosure.* Business Associate shall report to the Covered Entity in writing any use or disclosure of the Covered Entity's PHI otherwise than as provided for by this Agreement within two business days of Business Associate becoming aware of such use or disclosure, 45 CFR §164.504(e)(2)(ii)(C).

F. *Business Associate's Agents.* Business Associate shall ensure that any agents, including subcontractors, to whom it provides PHI agree in writing to the same restrictions and conditions that apply to Business Associate under this Agreement with respect to such PHI, 45 CFR §164.504(e)(2)(D).

G. *Availability of Information to Covered Entity.* Upon the request of an Individual, or as directed by the Covered Entity, Business Associate agrees to provide access to PHI to an Individual in a manner consistent with 45 CFR §164.524, provided Business Associate has not issued a denial pursuant to 45 CFR §164.524(a)(2) or (a)(3).

H. *Amendment of PHI.* Upon the request of an Individual, or the Covered Entity, Business Associate agrees to make any amendments to PHI in a Designated Record Set, in a manner consistent with 45 CFR §164.526, unless Business Associate has issued a denial pursuant to 45 CFR §164.526(2).

I. *Appeals Procedure for Denial of Access or Amendment of PHI.* Business Associate shall create and maintain an appeal process described in 45 CFR §164.524 and §164.526 that Individuals can utilize, if their request for access to or amendment of their PHI is denied.

J. *Internal Practices.* Business Associate shall make its internal practices, books and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, the Business Associate on behalf of the Covered Entity available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining the Business Associate's compliance with the Privacy Rule.

K. *Availability of PHI to Covered Entity.* Business Associate shall make available to the Covered Entity such information as the Covered Entity may require to fulfill the Covered Entity's obligations to provide access to, provide a copy of, and account for disclosures with respect to PHI pursuant to the Privacy Regulations, including but not limited to 45 CFR §164.526 and 45 CFR §164.528.

L. *Minimum Necessary.* Business Associate and its agents or subcontractors shall only request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure, 45 CFR §164.514(d)(3).

M. *Retention of Protected Health Information.* Notwithstanding any provision to the contrary in the Contract, Business Associate and its agents or subcontractors shall retain all PHI throughout the term of the Contract and shall continue to maintain the information required under Article 2, Section J, Internal Practices, except any PHI returned or destroyed in accordance with Article 4, Section E, for a period of six (6) years after the termination of the Contract, 45 CFR §164.530(j)(2).

N. *Notification of Breach.* During the term of the Contract, the Business Associate shall notify the Covered Entity within two business days of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Business Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and State laws and regulations.

O. *Audits, Inspection and Enforcement.* In addition to the Covered Entity's rights under the Contract to review and audit all records, including claim files, associated with the administration of the Plan to ensure Contract compliance, among other express provisions, upon notice of a material breach of any of the terms of this Agreement, the Covered Entity, or its authorized agents or contractors, has the right upon reasonable notice to the Business Associate, to inspect the facilities, systems, books and records of the Business Associate, to inspect the facilities, systems, books and records of the Business Associate, 45 CFR §164.530. Business Associate shall promptly remedy any violation of any term of this Agreement and shall notify the Covered Entity of such in writing. The fact that the Covered Entity or its designee, inspects, or fails to inspect, or has the right to inspect, the Business Associate's facilities, systems and procedures does not relieve the Business Associate of its responsibility to comply with this Agreement, nor does the Covered Entity's (i) failure to detect or (ii) detection, but failure to notify the Business Associate or require the Business Associate's remediation of any unsatisfactory

practices, constitute acceptance of such practice or a waiver of the Covered Entity's enforcement rights under this Agreement. Nothing in this paragraph is deemed to waive the provisions of the New Jersey Tort Claims Act, 59:1-1 et seq. as they apply to the Covered Entity.

Article 3 – Obligations of Covered Entity

A. *Safeguards.* The Covered Entity shall be responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to the Business Associate pursuant to this Agreement, in accordance with the standards and requirements of the Privacy Rule, until such PHI is received by the Business Associate.

B. *Limitations in Privacy Notice.* The Covered Entity agrees to notify the Business Associate of any limitations(s) in its notice of privacy practices of the Covered Entity in accordance with 45 CFR §164.520(2)(i) to the extent that such limitation may affect the Business Associate's use or disclosure of PHI.

C. *Revocation of Permissions.* The Covered Entity agrees to notify the Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect the Business Associate's disclosure of PHI.

D. *Request for Restrictions.* Covered Entity agrees to notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.

Article 4 – Termination

A. *Term.* This Agreement shall terminate following Contract transition, as provided in Section 22, "Contract Transition," of Schedule A of the Contract, and when all the PHI provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity. If the Business Associate determines pursuant to the Subsection E below that it is infeasible to return or destroy PHI received from, or created or received by the Business Associate on behalf of the Covered Entity, the protections of this Agreement with respect to such PHI shall remain in effect.

B. *Material Breach.* A breach by the Business Associate of any material provision of this Agreement, as determined by the Covered Entity, shall constitute a material breach of the Contract and shall provide grounds for termination of the Contract by the Covered Entity, pursuant to the termination provisions of the Contract, and indemnification of the Covered Entity by the Business Associate, pursuant to the indemnification provisions of the Contract.

C. *Reasonable Steps to Cure Breach.* If the Covered Entity knows of a pattern of activity or practice of the Business Associate that constitutes a material breach or violation of the Business Associate's obligations under the provisions of this Agreement and does not terminate the Contract pursuant to Section 4(B), then the Covered Entity shall provide the Business Associate time to take reasonable steps to cure such breach or end such violation, as applicable. If the Business Associate's efforts to cure such breach or end such violation within the time accorded by the Covered Entity, are unsuccessful, the Covered Entity shall either (i) terminate the Contract, if feasible, or (ii) if termination of the Contract is not feasible, then the Covered Entity shall report the Business Associate's breach or violation to the Secretary of the federal Department of Health and Human Services, 45 CFR §164.504(e)(1)(ii).

D. *Judicial or Administrative Proceedings.* Covered Entity may terminate the Contract, if (i) the Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA or other security or privacy laws or (ii) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate has been joined.

E. *Effect of Termination.* Upon termination of the Contract for any reason, the Business Associate shall comply with Section 22, "Contract Transition," of Schedule A of the Contract. Thereafter, the Business Associate shall return or destroy all PHI that the Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI.

(i) In the event that the Business Associate determines that return or destruction is not feasible, the Business Associate shall provide the Covered Entity notification of the conditions that make return or destruction infeasible. Business Associate shall continue to extend the protections of this Agreement to such PHI that was infeasible to return or destroy, and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such

PHI. 45 CFR §164.504(e)(2)(I).

(ii) If the Business Associate elects to destroy the PHI, the Business Associate shall certify in writing to the Covered Entity that the PHI has been destroyed.

(iii) The rights and obligations of Covered Entity and Business Associate established under this Agreement, HIPAA and the Privacy Rule in regard to PHI shall survive the termination of the Agreement and continue for as long as Business Associate maintains such PHI.

Article 5 – Disclaimer.

Covered Entity makes no warranty or representation that compliance by the Business Associate with this Agreement, HIPAA, or the Privacy Rule will be adequate or satisfactory for the Business Associate's own purposes. Business Associate is solely responsible for all decisions made by the Business Associate regarding the safeguarding of PHI.

Article 6 – Amendment

A. *Amendment to Comply with Law.* The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule. The parties understand and agree that the Covered Entity must receive satisfactory written assurance from the Business Associate that the Business Associate will adequately safeguard all PHI that is received or creates pursuant to the Contract. Upon the Covered Entity's request, the Business Associate agrees to promptly enter into negotiations with the Covered Entity concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of the Privacy Rule. The Covered Entity may initiate termination of the Contract in accordance with the termination provisions of the Contract upon 30 days written notice in the event (i) the Business Associate does not promptly enter into negotiations to amend this Agreement when requested by the Covered Entity pursuant to this Section or (ii) the Business Associate does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of PHI that the Covered Entity deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA Regulations.

B. *Regulatory References.* A reference in this Agreement to a section in the Privacy Rule means the section in effect or as amended.

Article 7 – Assistance in Litigation or Administrative Proceedings.

Business Associate shall make itself, and any subcontractors, employees or agents assisting the Business Associate in the performance of its obligations under this Contract, available at no cost to the Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Covered

Entity, its officers or employees based upon a claimed violation of HIPAA, the Privacy Rule or other laws relating to security and privacy, except where the Business Associate or its subcontractor, employee or agent is a named adverse party.

Article 8 – No Third Party Beneficiaries.

Nothing express or implied in this Agreement is intended to confer upon any person other than the Covered Entity, the Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

Article 9 – Effect on Contract

All terms of the Contract shall remain in force and effect except where they might conflict with the terms of this Agreement and then the terms of this Agreement shall control.

Article 10 – Interpretation

This Agreement and the Contract of which it is part shall be interpreted as broadly as necessary to implement and comply with HIPAA, the Privacy Rule and applicable state laws.

The Parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.

Article 11 – Notices

Any notices required pursuant to this Agreement shall be given in the same manner required under the Contract, see Section 23, “Notices,” of Schedule A, “Standard Terms and Conditions.”

CONTRACT HEALTH BENEFIT CONSULTANT SERVICES

This Contract is made and entered into the ____ day of _____, 2005, between the New Jersey State Health Benefits Commission, with offices at 50 West State Street, Trenton, New Jersey 08625-295, hereinafter referred to as the COMMISSION, and _____, with offices at _____, hereafter referred to as the CONTRACTOR.

Whereas, the COMMISSION desires to contract for health benefit consultant services, as set forth in the attached Schedule A, "Standard Terms and Conditions", Schedule B, "Scope of Work", Schedule C, "Rates," and Schedule D, "HIPAA Business Associate Agreement;" and

Whereas, the CONTRACTOR has represented that it is qualified by training and experience to perform these services in the manner and on the terms and conditions set forth in the attached Schedules A, B, C and D.

Now therefore, in consideration of the mutual promises herein, the parties hereto covenant and agree as follows:

ARTICLE 1-WORK

The CONTRACTOR shall at its own cost and expense furnish all labor, services, equipment and incidentals necessary to perform all Work set forth in the attached Schedules A, B, C and D.

ARTICLE 2- CONTRACT DOCUMENTS

The CONTRACTOR and the COMMISSION hereby agree that all of the provisions, terms, conditions, specifications and scope of work set forth in Schedules A, B, C and D, together with the terms herein, comprise the entire Contract between the COMMISSION and the CONTRACTOR.

ARTICLE 3- CONFLICT

The CONTRACTOR and the COMMISSION agree that, in the event it is necessary to interpret the Contract documents or resolve any inconsistencies between or among them, the Contract documents shall have the following order of precedence:

- 1.The "Contract."
2. Schedule D, "HIPAA Business Associate Agreement."
3. Schedule A, "Standard Terms and Conditions."

4. Schedule B, "Scope of Work."

5. Schedule C, "Rates."

ARTICLE 4- CONTRACT PRICE

The COMMISSION will pay the CONTRACTOR for performance of the work in accordance with Schedule C, "Rates."

ARTICLE 5-CONTRACTOR'S REPRESENTATIONS

As part of the inducement for the COMMISSION to enter into the Contract, the CONTRACTOR makes the following representations:

1.The CONTRACTOR has familiarized itself with the nature and extent of the Contract documents and with all federal and State laws, rules and regulations that may affect cost, progress or performance of the Work.

2. The CONTRACTOR accepts the Contract documents in their entirety.

3. The CONTRACTOR binds itself, its partners, successors and assigns to all covenants, agreements and obligations contained in the Contract documents.

IN WITNESS WHEREOF, CONTRACTOR has duly signed this Contract; and, the COMMISSION, through the Director, Division of Pensions and Benefits, has signed this Contract.

CONTRACTOR

COMMISSION

By:_____

By:_____

Frederick J. Beaver,
Director, Division of Pensions
and Benefits